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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Seventeenth session

SUMMARY RECORD OF THE 47th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 1 December 1997, at 3 p.m.

Chairperson: Mr. ALSTON

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The meeting was called to order at 3.10 p.m.

GENERAL DISCUSSION: "NORMATIVE CONTENT OF THE RIGHT TO FOOD" (ARTICLE 11 OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS) (agenda item 7) (continued)

1. The CHAIRPERSON invited participants to give their views on the right to food, to assist the Committee in adopting a position on the issue.

2. Mr. KRACHT (International Fund for Agricultural Development) said that the first question to be looked at was the impact that an approach based on the right to food might have on development. That question had always been a major obstacle for development agencies, a number of which did not see why they should adjust their methods to accommodate that new approach. However, a strategy based on essential needs was actually charity in disguise. Although goals were set, no one was accountable for attaining them. The approach based on the right to food, on the other hand, entailed a number of obligations and a very high degree of accountability.

3. At the same time, the nature of those rights and obligations must be clearly defined. All individuals had a right to food, and the State had an obligation to respect and protect that right. Although the State's influence was steadily declining, it was still one of the main players as far as obligations were concerned. While it was vital to agree on a minimum number of fundamental State obligations, even more important was a clear understanding that the State should not be considered mainly as a food supplier. The dimensions of the question must be clearly defined: the first obligation of States was to recognize and protect the right to food; it was only as a last resort, i.e. when individuals were unable to exercise that right, that the State should assume the role of supplier. That was the "safety net" concept referred to by the representative of FAO.

4. Next to be looked at were national and international procedures and how procedures regarding responsibility at those two levels could be defined. A distinction must be drawn between the content of the right to nutrition itself and the implementation of that right. It was important to understand that distinction before drafting any general comment.

5. Lastly, there was the question of the Committee's guidelines for the preparation of reports by States parties. If the Committee succeeded in agreeing on a minimum of State obligations (observance, protection and implementation of the right to nutrition), it would be necessary to look at those guidelines to see whether they were applicable to the new situation. That did not seem to be the case, even though they had been suitable at the time when they were drafted.

6. The CHAIRPERSON said it was his understanding that the normative content could be defined on the basis of the obligations of observance, protection and implementation.

7. Mr. KRACHT (IFAD) said that that interpretation was not correct. The normative content had to do with access to food and to the means of producing it. At the time when the Covenant was drafted, 30 years earlier, the

questions of food and nutrition had been seen in a different light. Since then, the approach had changed from one centred mainly on production to one based on a more equitable balance between production and access to food. It was now realized that the food aspect must be backed up by a health and protection dimension. If the Covenant were to be rewritten, it would probably refer to the right to nutrition or perhaps the right to food and nutrition, rather than simply to the right to food.

8. Mr. AHMED said that the expression "right to food", which dated from the 1940s, might not be the most appropriate since, as a jurist would say, there was no right without obligation. In the case in question, there was no instrument obligating States to honour their "obligation" to provide food to the needy.

9. The right to food was enshrined and confirmed in a number of instruments, including the Universal Declaration of Human Rights, which the United States worked hard to have adopted. However, the United States continued to make its food aid dependent on political considerations and interests and impose economic sanctions on Cuba, the Sudan and Iran, without any thought for the consequences on the nutrition of the peoples of those countries. Moreover, in 1994, during the Uruguay Round of negotiations, the United States had succeeded in having all members of the new World Trade Organization import a minimum percentage of basic foodstuffs. Many countries had now become more dependent than ever on food imports and in some of them, local food crop production had become virtually non-existent, with the resulting hunger and destabilization.

10. Most ironically, while the Universal Declaration of Human Rights and the Covenant embodied the right to food, the United Nations Security Council had for seven years been denying that right to the people of Iraq, whose only sin had been their inability to overthrow a dictatorial regime. It was therefore difficult to speak of a "right" to food. However, no other expression fitted and there was nothing for it but to continue to work for the acceptance, observance and exercise of that "right".

11. Rather than be asked to make the right to food a "fundamental right", which it obviously was, the United Nations General Assembly should invite States parties to the Covenant to submit yearly reports on their national food production and distribution situation, the number of individuals requiring national or international aid and the measures taken to implement the people's right to adequate food. If that experiment was successful, States parties could then be encouraged to adopt measures, and possibly legislation, on their food obligations. That would be an indirect way of promoting food production and development.

12. Mr. MARCHIONE (Researcher on Human Rights) said there was much confusion about the normative content of the right to food. In order to clarify matters, examples of the implementation of the right to food should be provided, giving the names of countries which had incorporated that right into their constitutions or describing how violations of that right had been dealt with. To that end, it would be helpful to focus on the key words "observance", "protection" and "implementation". As part of the follow-up to

the World Food Summit, the United States had adopted those key words and was now prepared to ratify the Covenant. By shedding further light on the question, the Committee would be helping to advance matters.

13. Ms. KOCH (Chairperson of the NGO Working Group on Nutrition) said that the Committee's debate would gain by input from women, who were responsible for more than 60 per cent of world food production. Regardless of the importance of their role, women very seldom had access to land, credit, outreach services, training or technology. All too often women ate after everyone else, and in many countries girls received a wholly inadequate food ration.

14. At a round table held in New York in March 1997 as part of the follow-up to the World Food Summit, the NGOs which she represented examined a number of issues germane to the Committee's debate, including how to ensure exercise of the right to food when subsistence agriculture, in which women predominated, was eliminated in favour of commercial crops; how the difficulties encountered by women in obtaining credit could be overcome; and the problems of women and children working areas which had been laid with mines.

15. Regardless of all the undertakings given at recent United Nations summits, women were still far from achieving the objectives set. Accordingly, in defining the right to food, the approach adopted should take account of the difference between men and women.

16. Mr. VALENTE (World Forum on Food Security and Sustainable Nutrition) said that, as far as civil society was concerned, it was not simply a matter of having food, but also of having access to the means of production. Rather than receiving charity, people wanted jobs, land and dignity. Food and nutritional security were possible only if food enabled individuals to participate in the life of their society actively and with dignity.

17. Ensuring the universal right to food called for the creation of a world civil society forum for a comprehensive follow-up to all decisions taken by Governments at international summits. The organization which he represented was anxious to know the impact of globalization on food security at national level and was most concerned about a multilateral agreement on investment scheduled to be signed in May 1998. What would be the impact of that agreement on the economic, social and cultural rights of the world's peoples? The rights of the investor seemed to be given precedence over all other human rights.

18. The CHAIRPERSON said that, while general statements were of course interesting, it would be preferable if speakers could confine themselves to the measures which the Committee might take.

19. Mr. WINDFUHR (Foodfirst Information and Action Network - FIAN) said that, while Mr. Kracht's proposed definition of normative content was excellent, it should be linked to States' obligations. Governments should, for example, be asked to identify the most vulnerable groups of society, to formulate policies and measures for those groups and to ensure that adequate resources were allocated to them. It was not enough to provide statistics on victims of famine, malnutrition and violations of the right to food.

Explanations must also be given for failure to implement that right. In 1993, for example, IFAD had conducted a study on the reasons for hunger and malnutrition in rural areas and urban centres. As a result, 12 basic causes of hunger had been identified, among them the lack of access to land and means of production.

20. The CHAIRPERSON acknowledged that the Committee had not so far succeeded in obtaining sufficient information on the right to food from States parties. States appeared to be less reluctant to provide such information when asked for it by agencies or organizations such as FAO or the Committee on World Food Security. The Committee should therefore make greater use of the data collected by those agencies.

21. Mr. KENT (World Alliance on Nutrition and Human Rights) said that the Committee should follow the example of the Committee on the Elimination of Racial Discrimination by drafting a model law on the right to food for inclusion in the guidelines and to be used by States parties as a basis in drafting their own relevant legislation.

22. That legislation should define clearly the food rights of individuals, the relevant obligations of the State, the bodies responsible for monitoring observance of such rights, the mechanisms ensuring that those bodies properly performed their task (ombudsman, United Nations treaty bodies, etc.) and, last but not least, the remedies available to individuals who felt that their right to food had been violated.

23. Mr. VON DER WEID (Antenna International) said such legislation should refer specifically to the right of access to land and seeds and the right to have a vegetable garden. Moreover, the United Nations agencies, particularly WFP, FAO and WHO, should focus more on foods with a very high nutritional value, including micro-algae, and on related scientific research.

24. Mr. MARCHIONE (Researcher on Human Rights) said the Committee should follow the example of the Committee on Civil and Political Rights by endeavouring to involve civil society and the various communities in drafting measures to give full effect to the Covenant's provisions on the right to food.

25. Mr. ANTANOVICH said the Committee did not give the right to food the attention it deserved. In its guidelines, it should stress the obligation of States parties to protect, observe, facilitate and fully ensure the exercise of the right to food. It should also analyse the wealth of information it had collected on measures taken by individual States for the realization of the right to food, some of which had proved highly effective, particularly in China and India. The results of the analysis could be published.

26. The CHAIRPERSON informed participants that a document on the way in which the Committee functioned would shortly be available.

27. Mr. RIEDEL said the definition of the right to food given by Mr. Kracht at the previous meeting was a good starting point. It should be accompanied by a list of indicators and factors to be taken into account in evaluating the degree of realization of the right to food in individual countries.

28. Mr. SADI said the national legislation on the right to food should not only stipulate the relevant obligations of the State, but also make it clear that any individual who had the means should himself meet his own food needs rather than ask for charity.

29. Mr. EIDE (Norwegian Institute of Human Rights) said Mr. Kracht's definition of the right to food was adequate and it was for each State to expand it on the basis of national conditions. Emphasis should be placed on State obligations. Under article 2.1 of the Covenant, for example, States parties undertook to take steps to achieve progressively the full realization of the rights recognized in the Covenant by all appropriate means, including in particular the adoption of legislative measures. In its guidelines, the Committee should ask Governments to indicate what laws they had adopted to that end and what factors and difficulties were preventing them from giving full effect to the provisions of those laws. External factors such as the Multilateral Agreement on Investment, for example, could hamper States parties' efforts to live up to their obligations.

30. The CHAIRPERSON said the Committee should perhaps avoid stressing the last point, as States parties might be tempted to explain any failure to honour their obligations in terms of international factors. Moreover, the Committee was perhaps not the best qualified body to consider matters such as the Multilateral Agreement on Investment.

31. Ms. BARTH EIDE (ACC Sub-Committee on Nutrition) said the special rapporteurs appointed by the Commission on Human Rights to investigate the human rights situation in a number of countries might perhaps, in the course of their work, try to ascertain whether Governments were ensuring the full exercise of the right to food. The advisory services of the Centre for Human Rights could also help Governments to honour their obligations, particularly regarding the drafting of legislation on that right.

32. In its guidelines, the Committee should call on States parties to provide more specific information and decide in advance which national bodies would be responsible for collecting the information to be used by the individuals preparing their reports. The Committee might conduct case studies into the way in which States parties prepared their reports.

33. Finally, any reference to the right to food must take account not only of the calorific and nutritional value of foods, but also of nutritional habits, which depended on the natural environment and cultural traditions. Consequently, the concept of dietary security, in the broad rather than medical sense of the term, should be considered in conjunction with the concept of food security.

34. Mr. OSHAUG (WANHR) said if the objective could be specified in the guidelines and countries could be convinced that the intention was to help them identify their problems so as to contribute to their development, that would be seen in a more positive light and much of the resistance would evaporate, particularly the fear on the part of many countries that they would be accused of human rights violations.

35. To avoid increasing further the workload of countries which received numerous requests for reports, a framework should be established for the preparation of the various reports on the topic, which would result in improved coordination, particularly among bodies in the United Nations system. The guidelines would then be seen as helping countries to achieve greater efficiency, without added workload, and without any fear of necessarily being accused of human rights violations.

36. That would lay the basis for the implementation of a food and nutrition policy which could be common to the various United Nations bodies and serve as a guide to countries.

37. The CHAIRPERSON said that the system as it currently stood did not lend itself to general coordination within the United Nations. Only specific action could be taken on the basis of constructive suggestions. For the time being, the adoption of a common framework was unrealistic. Technical bodies such as the Committee on World Food Security had activities regarded as beneficial by States, which therefore had to cooperate with those bodies in their own interest, whereas those same States were obligated to report to the Committee on Economic, Social and Cultural Rights on their human rights situation.

38. Mr. OSHAUG (WANHR) said the question of coordination of activities should not be looked at pessimistically. There were cases in which it worked and there was hope that the situation would improve.

39. Mr. WINDFUHR (FIAN) stressed the importance of the role which legislation could play in individual countries in protecting the right to food, particularly for the most vulnerable groups of society which, despite differences from one country to another, often faced similar problems.

40. Emphasis should first be placed on the responsibility of States in that respect. They must not only adopt policies to ensure the realization of the right to food within their own territory, but must also avoid violating the right to food of peoples of other States. Secondly, there was the responsibility of the international system, which sometimes placed restrictions on States. Thirdly, there was the major role that NGOs could play in monitoring the realization of the right to food, although more attention was currently being focused on civil and political rights than on the right to food. It was highly important that, in the age of globalization, States should monitor the impact of their policies not only within their own territory, but outside it, so that the right to food could assume its full dimensions.

41. Mr. VERCUEIL (FAO) said the problem was to give the content of the right to food a more specific definition each time. That would involve devising food quantity and security indicators which could not themselves be given a specific definition, except in the context of the society concerned. The task of the Committee on World Food Security was to set up mechanisms to define those indicators and identify groups for which food insecurity was a reality or could become so.

42. The Plan of Action of the World Food Summit contained many objectives which paralleled the action of the Committee on Economic, Social and Cultural Rights. The multidimensional nature of the follow-up to the World Food Summit called for action at the national, intergovernmental and inter-agency level, as well as coordination and cooperation within the United Nations system.

43. Mr. MEDRANO (Chairman of the Committee on World Food Security) said his Committee (CFS) expected countries to provide it regularly with information on the implementation of the Plan of Action of the World Food Summit, information which would be added to that provided under other international instruments, particularly in regard to nutrition. Countries should not be presented with repeated requests for the same information. It was important for the Committee on Economic, Social and Cultural Rights to propose not only to CFS, but to the United Nations system as a whole, a common, basic conception of the right to food, together with criteria or indicators to ensure its realization. That would involve close coordination.

44. The content of the right to food was gradually being defined, sometimes in a positive and sometimes in a negative way. For example, the definition found in the Rome Declaration on World Food Security was "the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger", a definition which bolstered that contained in article 11.2 of the International Covenant on Economic, Social and Cultural Rights, namely "the fundamental right of everyone to be free from hunger". The Committee should expand that definition by including new elements such as the concept of food security. Those elements had not given rise to any protest, but simply to reservations of interpretation, at the World Food Summit. It would be worthwhile for the Committee on Economic, Social and Cultural Rights to consider them. Regarding the possibility of invoking the right to food before the courts, he awaited the Committee's conclusions with great interest.

45. The CHAIRPERSON asked what use the Committee on World Food Security would make of a definition of the right to food or an extension of its content by the Committee on Economic, Social and Cultural Rights. Would it, for example, simply take note of it?

46. Mr. MEDRANO (Chairman of the Committee on World Food Security) said that his Committee would use the common concept as the basis for its follow-up system.

47. Mr. RIEDEL asked whether in Mr. Medrano's view what was needed was a clearer definition of the concept of food security and relevant policy or of the concept of the right to food under international law itself; that would involve amending the text of article 11 of the Covenant, which was binding on States parties.

48. Mr. MEDRANO (Chairman of the Committee on World Food Security) said that the intention was to clarify the legal content of the right to food within the framework of the international instruments currently in effect.

49. Mr. RIEDEL asked whether the Committee was to focus on developing its general guidelines in greater detail or, as was his understanding, drafting a

general comment on content, or a general or additional general comment on responsibility. If the latter was the case, he would like to take up two or three points raised in the information documents presented earlier, particularly Mr. Kent's. It might be worthwhile advising States on the mechanisms to be used (ILO standard monitoring procedures, or the establishment of national human rights committees to deal with issues relating to the right to food, for example) and then encouraging them to draw up protocols to ensure that they honoured their obligations. It might also be possible to use the judicial system to punish violations of the right to food, or use the constructive dialogue approach adopted by the Committee in considering country reports, or conduct public information campaigns. That was the type of question the Committee should be asking itself in drafting a document or comment on a fundamental right. It was also important to emphasize the implementation and follow-up procedures and not simply questions of definition.

50. Mr. DOBBERT (World Federation of United Nations Associations) said the Committee should seriously consider the revision of the general guidelines questionnaire for Governments preparing their reports and the possibility of adopting an additional general comment. The definition of the content of the right to food was an extremely complex question which had already raised many difficulties in the past. Greater participation by NGOs in the preparation of country reports for submission to the Committee should be encouraged. Governments should be encouraged to seek the assistance of NGOs with expertise in the fields of food and agriculture by allowing them to look at the draft report or asking them for their views on the points to be included in it. Moreover, inter-sessional reports or documents of the Committee on issues to be accorded priority in considering country reports and supplementary issues should be more detailed. Finally, the system for following up on the Committee's recommendations regarding its observations on individual reports should be improved, possibly, if resources permitted, with the assistance of the Centre for Human Rights.

51. Mr. EIDE (Norwegian Institute of Human Rights) said it was a mistake to devote so much time to the definition of the right to food, which should be left fairly general, and it would be preferable to focus on providing further clarifications on complaints arising out of that right and ways of dealing with them.

52. Ms. BONOAN-DANDAN said it was unfair to say that the Committee had not accorded sufficiently high priority to the right to food. The Covenant covered a wide range of rights and the Committee was called on from all quarters (such as the summits on social development and housing) to consider a report or look at a particular issue and, under such circumstances, it was therefore difficult for it to set priorities, as all those questions were priority topics. As far as the actual working methods of the Committee were concerned, it was regrettable that much of the information provided to it (both by NGOs and by other organizations) was not more specialized and was so varied, as it did not permit any subsequent detailed exchange of views with States parties. She was also against any revision of the Committee's general guidelines with a view to drawing up a more detailed questionnaire, as country reports would then be so long that they would become unreadable and would present translation problems.

53. Ms. JIMENEZ BUTRAGUEÑO proposed that a member of the Committee should, with specialist assistance and on the basis of the information provided at the meeting, prepare a draft general comment on the right to food and, once it was adopted, consider how it could be incorporated in the general guidelines on the form and content of reports.

54. The CHAIRPERSON expressed the hope that the Committee would indeed propose a draft general comment for the following session. The content would have to be determined in the light of the discussions held and the information provided at the meeting so that it would be meaningful at the international level. Some of the topics which seemed to arise out of the discussion at the current meeting, and which he would report on the following day at the opening of the seminar on the right to food, could provide a basis for preliminary deliberations on the draft.

55. Mr. WINDFUHR (FIAN) recognized that the Committee's task was not an easy one and said that, without any document describing clearly in what respects the right to food was not observed or stipulating States' obligations regarding that right, it was difficult for NGOs to respond exactly to the Committee's expectations and needs. That was also true of the working methods of NGOs concerned with nutrition, which generally tended to confine themselves to gathering data on a given aspect of food (such as quantities of food produced), rather than embarking on an analysis of food policies. The Committee's general guidelines, particularly those relating to article 11, were quite useful and effective in that they were organized around a clearly defined structure, so that the information obtained was more or less what had been asked for.

56. The CHAIRPERSON, referring to the comments made by Ms. Bonoan-Dandan, said that the existing reporting system was an anachronism and that in future, both for practical reasons and because it had to make choices, the Committee should think about adopting a new approach which would involve requesting reports on specific issues considered by the Committee as of special importance, rather than initial or periodic reports of a general nature.

57. Mr. ANTANOVICH said efforts should be made to coordinate the food activities of United Nations agencies, NGOs and individuals and to encourage the regular convening of meetings of the type currently in progress, insofar as the resources of the United Nations and the commitments of individuals permitted. Moreover, regardless of the procedure adopted in defining priorities, the right to food would still be one of the highest priorities.

58. Mr. GRISSA said it was impossible to isolate one right from the others, as they were interdependent. The realization of the right to food, for example, was dependent, in particular, on the realization of the right to work. The right to food was not the only priority, but one among many.

59. The CHAIRPERSON, speaking on behalf of the members of the Committee, said that for analysis purposes the right to food must be considered in isolation in order to determine what sort of measures could be taken. He recognized, however, that it should also be borne in mind that it formed part of a broader context.

60. Mr. MEDRANO (Chairman of the Committee on World Food Security) said it was his understanding that much of the information which the Committee on Economic, Social and Cultural Rights asked countries to provide in their reports was linked with the information which countries had to submit to the Committee on World Food Security. In order to avoid duplication, the Committee might consider the possibility of devoting a larger section to the right to food in its general guidelines and ask to be provided with copies of the country reports to the Committee on World Food Security concerning the implementation of the World Food Summit Plan of Action.

61. The CHAIRPERSON said that proposal was extremely interesting, as the Committee had already taken a similar initiative - which had proved productive - in respect of States parties which had ratified the relevant ILO Conventions. In the current case, the Committee could provide additional information focusing on the legislative aspect, among others, of the right to food, the type of remedy available, etc., and use country reports to the Committee on World Food Security for technical details, an overview of the situation, and so on. It would be desirable for the Committee to consider the proposal.

62. Mr. MARCHIONE (Researcher on Human Rights) said the reason it was urgent to define the right to food more clearly was that it was necessary to have a norm on which to base cooperation efforts.

63. The CHAIRPERSON said he sincerely hoped the various parties involved would strengthen their cooperation and make it more constructive. He also invited participants who were not members of the Committee to support the Committee's proposal on the drafting of an optional protocol to the Covenant and thanked the various experts for attending the meeting and for their invaluable contributions.

The meeting rose at 6.05 p.m.